



VIA ELECTRONIC FILING

September 2, 2016

Federal Communications Commission
Commission's Secretary
Office of the Secretary
445 12th St., SW
Room TW-A325
Washington, DC 20554

Re: Mortgage Bankers Association Petition for TCPA Exemption (CG Docket No. 02-278)

To Whom It May Concern:

Quicken Loans Inc. ("Quicken Loans") is pleased to submit comments on the Federal Communications Commission's ("FCC" or "Commission") request for comments on the *Mortgage Bankers Association ("MBA") Petition*. The MBA petition calls for an exemption from the prior express consent requirement of the TCPA for mortgage servicing communications.¹ We thank the Commission for the opportunity to comment.

I. QUICKEN LOANS INC.

Detroit-based Quicken Loans Inc. is the nation's second largest retail home mortgage lender and the largest and consistently highest-quality FHA mortgage lender. The company closed more than \$220 billion of mortgage volume across all 50 states since 2013. Quicken Loans generates loan production from web centers located in Detroit, Cleveland and Scottsdale, Arizona. The company also operates a centralized loan processing facility in Detroit, as well as its San Diego-based One Reverse Mortgage unit. Quicken Loans ranked "Highest in Customer Satisfaction for Primary Mortgage Origination" in the United States by J.D. Power for the past six consecutive years, 2010 – 2015, and highest in customer satisfaction among all mortgage servicers in 2014 and 2015.

Quicken Loans was ranked No. 5 on FORTUNE magazine's annual "100 Best Companies to Work For" list in 2016, and has been among the top-30 companies for the last 13 years. It has been recognized as one of Computerworld magazine's '100 Best Places to Work in IT' the past 11 years, ranking No. 1 in 2015, 2014, 2013, 2007, 2006 and 2005. The company moved its headquarters to downtown Detroit in 2010, and now more than 10,000 of its 15,000 team members work in the city's urban core.

¹ Petition of Mortgage Bankers Association for Exemption, CG Docket No. 02-278 (filed June 16, 2016) (MBA Petition).

II. BACKGROUND

The Telephone Consumer Protection Act of 1991 ("TCPA") prohibits autodialed non-emergency calls to cellular telephone numbers without the prior express consent of the called party. Mostly recently, the FCC released rulemaking on the TCPA Bipartisan Budget Act of 2015 amendment. The Budget Act amendment final rule includes an exemption to the TCPA for anyone trying to make autodialed, artificial-voice, or prerecorded-voice calls to both wireless and landline phones, if the calls are "made solely to collect a debt owed to or guaranteed by the United States."² The final rule does not include debt federally insured by the government.³

III. COMMENTS

Evidenced by its name, the TCPA was originally enacted to protect consumers from unregulated and harassing telemarketing calls and faxes. We agree with the original intention of the law. However, recently the TCPA has stepped beyond its intended purpose. Generally, the quarter-century old law is an impediment to rapidly developing technology and business expectations. Specifically, professional plaintiffs abuse the TCPA by suing businesses as a hobby, disturbing business and encouraging limited communication between companies and their clients.⁴

The FCC had an opportunity to clarify through its final rule by bringing debt insured by the federal government under the exemption. Instead, the final rule included limitations creating more uncertainty, narrowed the exemption to only recover a portion of debt, which line the federal government's pocket, and left out a large majority of mortgages. In addition, the FCC exceeded its scope and drafted regulations not authorized by the text of the Budget Act statute.

The FCC also had a chance to harmonize with other federal agencies rules and requirements, which have been developed by years of regulating the industry. The mortgage industry and its regulators learned from the financial crisis that early client engagement is essential to effective loss mitigation and mortgage servicing processes. Because of this, federal and state rules, including government-sponsored enterprises ("GSEs") and investors, mandate a certain number of calls and good faith efforts to work with delinquent clients. Through these servicing standards, agencies and servicers aligned in the mutual goal of extending the underlying objective of the TCPA, which is consumer protection. For this reason, the Federal Housing Finance Agency ("FHFA") recommends FCC exempt servicers of residential property.⁵ Instead, the FCC allowed the TCPA to continue to conflict with the regulations of other federal agencies. As a result, the very consumers that the TCPA is trying to protect, are harmed by the orders and rulings of the FCC.

The MBA petition would create a TCPA exemption for mortgage servicing allowing us to provide all homeowners, especially at-risk homeowners, with important information to keep them in

² Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584 (Budget Act).

³ Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, FCC 16-99 (2016).

⁴ Christina Tynan-wood, "How to Sue Telemarketers and Win", *InfoWorld.com*, October 5, 2010, <http://www.infoworld.com/article/2626467/technology-business/how-to-sue-telemarketers-and-win.html>

⁵ Comments of the FHFA to the Commission's Notice of Proposed Rulemaking on the TCPA's Budget Act Amendment, CF Docket No. 02-278 (filed June 6, 2016).

their homes and their credit intact. To be clear, the MBA defines “mortgage servicing” as “all actions, including all communications, related to the receipt and application of payments pursuant to the terms of any loan or security agreement, execution of other rights and obligations owed under the loan or security agreement, the modification of any terms of the loan or security agreement, and any other loss mitigation options.”⁶ We agree with the MBA’s definition. While the TCPA would still cause uncertainty and burden if servicing calls were brought under the exemption, we believe this is a step in the right direction.

Like the MBA, we understand that consumers’ privacy is paramount. That is why we support the right of the consumer to request to stop receiving autodialed or prerecorded and artificial voice calls. Should a consumer exercise that right, the servicer must honor that request by manually dialing that consumer in the future. However, it is important to understand that depriving servicers of modern telephone systems makes it difficult to to comply with their servicing obligations, even when acting in good faith.

We ask the FCC to use its authority to honor the TCPA’s original intentions to protect the consumer and level the playing field for all mortgage servicing communications by exempting these from the prior consent requirement of the TCPA. This would allow mortgage servicers to more effectively help clients stay in their homes and keep their credit intact. It also ensures services are better able to comply with the TCPA and other applicable laws.

IV. Conclusion

We thank FCC for the opportunity to comment on the MBA petition on TCPA exemption. Should you have any further questions, please contact me at garyweingarden@quickenloans.com or 313-373-4554.



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⁶ MBA Petition, Page 13